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APR 26 2002

In re Application of	:	OFFICE OF PETITIONS
Matthew James Fischer and Tracy D. Mallory	:	
Application No. 09/825,851	:	DECISION GRANTING PETITION
Filed: April 4, 2001	:	
Attorney Docket No. 42145/RJP/E264	:	
Title: METHOD OF PROVIDING SYNCHRONOUS TRANSPORT OF PACKETS BETWEEN ASYNCHRONOUS NETWORK NODES IN A FRAME-BASED COMMUNICATIONS NETWORK	:	

This is a decision on the petition filed January 9, 2002,
requesting that the Notice of Omitted Items be vacated.

On April 4, 2001, the above-identified application was filed. On June 18, 2001, the Office of Initial Patent Examination mailed a Notice to File Corrected Application Papers. On October 2, 2001, this Notice was withdrawn, and a corrected Notice of Omitted Items - Filing Date Granted (Notice) was mailed, stating that the application had been accorded a filing date of April 4, 2001, and advising applicant that Figures 70a - 70b, as described in the specification, appeared to have been omitted.

In response, on January 9, 2002, applicants filed the present petition and fee. The petition is further accompanied by a copy of applicants' postcard receipt acknowledging receipt of a Preliminary Amendment, a 219 page application, an executed declaration, and 101 sheets of formal drawings were received in the United States Patent and Trademark Office (Office) on April 4, 2001. A review of the Preliminary Amendment indicates that

the specification was amended so as to change Figures "70a - 70b" to Figure "70", which accurately describes the drawing as filed.

Upon review of the record, the Preliminary Amendment has not been located among the application papers. However, the evidence is convincing that the application papers deposited on April 4, 2001, included this Preliminary Amendment, and said Preliminary Amendment was subsequently misplaced in the Office. Therefore, the application, including an accurate description of Figure 70, was correct on filing and entitled to a filing date of April 4, 2001.

Accordingly, the petition is **GRANTED**.

The Notice mailed October 2, 2001 was sent in error and is hereby **VACATED**. Therefore, no petition fee is necessary. If the petitioner wishes to have the \$130.00 petition fee refunded, he should submit a request for refund to the Office of Finance. A copy of this decision should accompany any such request.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of April 4, 2001, using the Preliminary Amendment submitted on January 9, 2002 and indicating in the Office records that an accurate description of the drawings was included on filing.

Any inquiries related to this decision should be directed to Petitions Attorney Paul Shanoski at (703) 305-0011.



Beverly M. Flanagan
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Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy